

# State of South Dakota

## EIGHTIETH LEGISLATIVE ASSEMBLY, 2005

916L0098

SENATE BILL NO. \_\_\_\_\_

Introduced by: \_\_\_\_\_

1 FOR AN ACT ENTITLED, An Act to KINGSBURY-ESCAPE.

2 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

3 Section 1. That § 22-11A-1 be amended to read as follows:

4 22-11A-1. The term, prisoner, ~~when~~ as used in this chapter, includes every person who is  
5 in custody by being under arrest or by being under process of law issued from a court of  
6 competent jurisdiction, whether civil or criminal. A prisoner at the time of ~~his~~ escape need not  
7 be in a place designated for the keeping of prisoners.

8 The term, escape, ~~when~~ as used in this chapter, includes any departure without lawful  
9 authority ~~or~~ and any failure to return to custody following a an assignment or temporary leave  
10 granted for a specific purpose or limited period.

11 Section 2. That § 22-11A-2 be amended to read as follows:

12 22-11A-2. Any ~~prisoner who escapes is guilty of~~ escape by a prisoner constitutes first degree  
13 escape if the prisoner effects the escape:

14 (1) By means of the use or threat of violence; or

15 (2) From physical confinement in a correctional facility; or

16 (3) From the immediate custody of a law enforcement officer or Department of



1           Corrections employee.

2           First degree escape is a Class 4 felony.

3           Section 3. That chapter 22-11A be amended by adding thereto a NEW SECTION to read  
4 as follows:

5           Any escape by a prisoner constitutes second degree escape if the prisoner effects the escape  
6 by means of failure to return to custody following an assignment or temporary leave granted for  
7 a specific purpose or limited period. Second degree escape is a Class 6 felony.

8           Section 4. That § 22-11A-3 be repealed.

9           ~~22-11A-3. Any law enforcement officer or person having custody of a prisoner who~~  
10 ~~negligently allows a prisoner to escape or go at large, except as permitted by law, is guilty of a~~  
11 ~~Class 1 misdemeanor.~~

12          Section 5. That § 22-11A-4 be amended to read as follows:

13          22-11A-4. If a prisoner escapes, the person from whose custody ~~he~~ that prisoner escaped  
14 may immediately pursue and retake ~~him~~ that prisoner at any time and in any place in the state.  
15 To retake a prisoner, the person pursuing may, after notice of ~~his~~ intention and refusal of  
16 admittance, break open an outer or inner door or window of a dwelling house or other structure.

17          Section 6. That § 22-11A-5 be amended to read as follows:

18          22-11A-5. Any person who ~~knowingly~~ conceals any prisoner ~~who~~ knowing that the prisoner  
19 has escaped is guilty of a ~~Class 5~~ Class 6 felony.

20          Section 7. The code counsel shall transfer §§ 22-11A-6 and 22-11A-7 to an appropriate  
21 chapter in Title 24 and shall renumber the sections accordingly and adjust all appropriate cross  
22 references.

23          Section 8. That § 22-11A-6 be amended to read as follows:

24          22-11A-6. Any county of this state, which is compelled to incur expense for the

1 apprehension and detention of escapees from the custody of the Department of Corrections,  
2 including sheriff's mileage and expense, the costs and expenses of a trial, and damage or injury  
3 resulting to county property, shall be reimbursed by the state for the expense incurred and for  
4 any actual damage or injury suffered.

5 Section 9. That § 22-11A-7 be amended to read as follows:

6 22-11A-7. In order to obtain reimbursement pursuant to § 22-11A-6, the ~~chairman~~ chair of  
7 the board of county commissioners of the county shall present a claim on a voucher to be  
8 approved by the secretary of corrections for all of the actual expenses paid by the county. When  
9 the voucher is presented to the state auditor, ~~he~~ the state auditor shall examine it and, if the  
10 claim is just and valid, ~~he~~ the state auditor shall issue a warrant for payment to be made from  
11 funds appropriated for that purpose, and the state treasurer shall then pay the sum to the  
12 treasurer of the county.

13 Section 10. That § 22-11A-8 be repealed.

14 ~~—22-11A-8. A conviction under § 22-11A-2 as a result of an escape from Department of~~  
15 ~~Corrections custody shall be punished by a mandatory sentence in the state penitentiary of not~~  
16 ~~less than seven years, which may not be suspended. Probation or suspended execution of~~  
17 ~~sentence may not form the basis for reducing the mandatory time of incarceration required by~~  
18 ~~this section.~~

19 Section 11. That § 22-11A-9 be repealed.

20 ~~—22-11A-9. A penitentiary sentence arising from a conviction under § 22-11A-8 may not~~  
21 ~~commence until the expiration, with no allowance of good time, of the last sentence of~~  
22 ~~imprisonment.~~

23 Section 12. That § 22-11A-10 be repealed.

24 ~~—22-11A-10. Any inmate sentenced under § 22-11A-8 shall serve the entire term of the~~

- 1 ~~inmate's sentence and is not eligible for parole release as authorized under chapter 24-15A.~~
- 2 Section 13. The code counsel shall rename chapter 22-11A, Escape.